



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

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**Arnold Schwarzenegger**  
Governor

June 25, 2009

Chris Scully  
City of Riverside  
3900 Main Street  
Fourth Floor  
Riverside, CA 92522

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION  
FOR THE VAN BUREN ROAD WIDENING – 500-FT SOUTHERLY OF JACKSON ST. TO  
1,000-FT NORTHERLY OF JURUPA AVENUE, CITY OF RIVERSIDE, RIVERSIDE  
COUNTY (ACOE REFERENCE NO. SPL – 2009 – 00237 – JEM)**

Dear Mr. Scully:

On February 10, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification ("Certification") for the widening of a portion of Van Buren Road in the City of Riverside. Regional Board staff provided a notice that the application was incomplete on February 23, 2009. City staff responded with the requested information on March 3, 2009 and March 13, 2009.

Subsequently, the City's request for Certification was denied without prejudice on May 6, 2009. The additional information requested in the denial was received on June 8, 2009. However, following further discussion with Regional Board staff, additional information was submitted on June 18, 2009. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments ("Basin Plan"):

Project Description:	Widening of a 1.5-mile section of Van Buren Road from 500-ft. southerly of Jackson Street to 1,000-ft. northerly of Jurupa Avenue in the City of Riverside <sup>1</sup> . The widening will involve the extension of a box culvert and energy dissipater through 180-ft of a perennial riparian stream located at the northwest corner of Van Buren Road and Arlington Avenue. The project is located in Section 31 of Township 2 South, Range 5 West, of the U.S.
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<sup>1</sup> The northernmost terminus of the widening will extend up to approach roadway improvements that are part of the proposed Van Buren Road Bridge replacement project over the Santa Ana River. The Bridge replacement is being undertaken by the County of Riverside and received Certification on September 5, 2007.



Geological Survey *Riverside West, California*, 7.5-minute topographic quadrangle map (33.945389 degrees N/-117.454019 degrees W).

Receiving water: Un-named perennial stream, tributary to Hole Lake.

Fill area: 0.14 acre of permanent impact, and 0.20 acre of temporary impact to riparian stream (180 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14.

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- Pollutants will be removed from storm water runoff discharges using three hydrodynamic separators at the following locations:
  - a) Storm drain line 7, near the intersection of Doolittle Avenue and Van Buren Boulevard;
  - b) Storm drain line 11, in the southern portion of the intersection of Morris Street and Van Buren Boulevard; and
  - c) Storm drain line 14, in the northern portion of the intersection of Morris Street and Van Buren.
- Site-specific best management practices ("BMPs") will be specified in the project Water Quality Management Plan ("WQMP") and Storm Water Pollution Prevention Plan ("SWPPP").
- Areas where waters of the State have been temporarily excavated will be re-vegetated with native riparian plants.
- The City proposes to restore 0.47 acres of waters of the U.S. within the filled channel.

**Offsite Water Quality Standards Mitigation Proposed:**

- No off-site water quality standards mitigation is proposed.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2002-0011, commonly known as the Riverside County Municipal Storm Water Permit. Order No. R8-2002-0011 requires that you substantially comply with the

requirements of State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, including the preparation of a SWPPP.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality. For more information, please review Order No. R8-2009-0003 at:  
[www.waterboards.ca.gov/santaana/board\\_decisions/adopted\\_orders/orders/2009/09\\_003\\_deminimus\\_permit\\_wdr.pdf](http://www.waterboards.ca.gov/santaana/board_decisions/adopted_orders/orders/2009/09_003_deminimus_permit_wdr.pdf)

You have proposed to restore waters of the U.S. at a location that is being contemplated for the development of a Walgreens retail store. This location has also been previously cleared of vegetation by the City in an effort to reduce flooding near the intersection of Arlington Avenue and Van Buren Boulevard and to make the channel less inviting to homeless persons. The proponents of the retail store currently propose to place a section of the channel within a reinforced concrete box to accommodate the store's parking lot. The Regional Board issued a denial without prejudice to the proponents of the retail store on May 13, 2009, pending receipt of an approval-in-concept of the proposed channel modifications from the Riverside County Flood Control and Water Conservation District ("District"). The modified channel would be dedicated to the District upon completion of the project, with an un-maintained zone that would allow the re-growth of riparian vegetation. Consequently, your proposed compensatory mitigation is incompatible with both the current and planned activities in the area. Condition 2, below, requires that the City carry out an alternative compensatory mitigation plan.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to the California Environmental Quality Act ("CEQA"), the City of Riverside adopted a Mitigated Negative Declaration for the Van Buren Road Widening Project – 500-ft Southerly of Jackson Street to 1,000-ft Northerly of Jurupa Avenue, on November 14, 2006. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board must consider the environmental effects of the project as shown in the associated negative declaration prior to reaching a decision on the project. The Regional Board has considered the City's Mitigated Negative Declaration in the issuance of this Certification and finds that changes or alterations have been required, or incorporated into the proposed project, which avoid or mitigate impacts to water quality to a less than significant level.

**This 401 Certification is contingent upon the execution of the following conditions:**

1. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.



2. The City must pay an in-lieu fee to the Santa Ana Watershed Association towards the eradication of 0.42 acres of invasive plant species in the upper Santa Ana River Watershed. The fee payment must include funding for a minimum of 10-years of follow-on maintenance and the completion of biological condition assessments, using published and generally accepted methods (e.g., California Rapid Assessment Method) for the purpose of evaluating the improvement to the eradication project area. Evidence of the fee payment must be provided to the Executive Officer by August 25, 2009.
3. Temporarily disturbed soils in and adjacent to the affected channel must be stabilized using effective best management practices, which include the use of appropriate native plants.
4. Prior to the proposed discharge of fill, the City must provide to the Executive Officer electronic copies of City-approved site plans indicating the final locations of the proposed hydro-dynamic separators.
5. The discharger must comply with the requirements of the Clean Water Act Section 404 Permit.

**Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:**

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies,



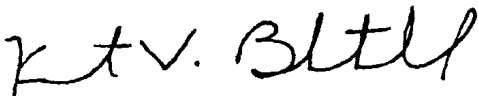
June 25, 2009

penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at:  
[www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2003/wqo/wqo2003-0017.pdf](http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf)

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



✓ GERARD J. THIBEAULT  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – James Mace  
State Water Resources Control Board, OCC – David Rice  
State Water Resources Control Board, DWQ – Water Quality Certification Unit  
California Department of Fish and Game – Michael Flores  
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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*California Environmental Protection Agency*



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